

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL NO. 1:07CV297
(1:04CR84)

MARCOS GONZALEZ-DELGADO,)	
)	
Petitioner,)	
)	
Vs.)	<u>O R D E R</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

THIS MATTER is before the Court on the Petitioner's motion for disqualification of counsel. The motion is denied.

Petitioner alleges that family members secured legal assistance in filing his previous motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, which the Court denied and dismissed October 15, 2007. **See Memorandum and Order and Judgment, filed October 15, 2007.** He advises the Court that his § 2255 motion was filed with no input from him and that "this bogus representation caused him . . . to use up his first collateral attack on his conviction and sentence." **Motion, at 2.**

A review of his § 2255 petition shows that it was prepared by Scott Fitz Randolph Pro Bono of Atlanta, Georgia, and that the petition was signed by Mr. Randolph “with express permission” of the Petitioner. **See Motion to Vacate, filed August 27, 2007, at 7; Petition for Writ of Habeas Corpus with Brief & Citation of Authority, filed August 27, 2007, at 35.** First, the Court notes that it was the Petitioner and not the Court who retained the services of Mr. Randolph. Secondly, Petitioner’s motion to disqualify his attorney is now moot due to the fact his petition was dismissed in October 2007.

IT IS, THEREFORE, ORDERED that the Petitioner’s motion for disqualification of counsel is **DENIED**.

Signed: April 8, 2008



Lacy H. Thornburg
United States District Judge

